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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

Loretta Greer,	)	
	)	
Petitioner,	)	
	)	
v.	)	CIV 04-1265 PHX JAT (VAM)
	)	
Attorney General, et al.,	)	<u>ORDER</u>
	)	
	)	
<u>Respondents.</u>	)	

Pending before the Court is petitioner's Motion for an Evidentiary Hearing. (Doc. 165).

Petitioner seeks an evidentiary hearing. 28 U.S.C. § 2254(e) severely restricts a court's discretion to grant an evidentiary hearing. Baja v. Ducharme, 187 F.3d 1075, 1077 (9th Cir. 1999). The statute imposes "an express limitation on the power of a federal court to grant an evidentiary hearing .. and [has] reduced considerably the degree of a district court's discretion." Baja, 187 F.3d at 1078 (quoting Cardwell v. Greene, 152 F.3d 331, 336 (4th Cir.), cert. denied, 119 S.Ct. 587 (1998)). Section 2254(e)(2) provides, in pertinent part:

If the applicant has failed to develop the factual basis of a claim in State court proceedings, the court shall not hold an evidentiary hearing on the claim unless the applicant shows that

(A) the claim relies on

1 (i) a new rule of constitutional law; made retroactive  
2 to cases on collateral review by the Supreme Court, that  
was previously unavailable; or

3 (ii) a factual predicate that could not have been  
4 previously discovered through the exercise of due  
diligence; and

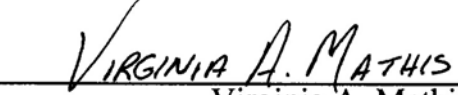
5 (B) the facts underlying the claim would be sufficient  
6 to establish by clear and convincing evidence that but  
for constitutional error, no reasonable factfinder would  
7 have found the applicant guilty of the underlying  
offense.

8 An exception to these requirements exists if a petitioner  
9 demonstrates he attempted to develop a factual basis for a claim  
10 in state court but was denied the opportunity to do so by the  
11 state court. Baja, 187 F.3d at 1078.

12 The motion submitted by petitioner is confusing and  
13 incoherent. Petitioner does not state with any clarity how the  
14 grievances outlined in her motion relate to her claims for habeas  
15 relief. In addition, she does not indicate, let alone demonstrate  
16 that she attempted to develop the factual basis for the issues in  
17 state court but was denied the opportunity to do so. For all  
18 these reasons, the motion for an evidentiary hearing will be  
19 denied without prejudice.

20 IT IS THEREFORE ORDERED that petitioner's Motion for an  
21 Evidentiary Hearing (Doc. 165) is denied without prejudice.

22 DATED this 8th of November, 2005.

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25 Virginia A. Mathis  
United States Magistrate Judge  
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